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OFFICE OF PETITIONS

In re Patent of YU al : APPLICATION FOR
Application No. 09/314,889 : PATENT TERM ADJUSTMENT
Filed: March 20, 2002 CPA filed
6/21/01
Attorney Docket No. PFC267C1

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(b)" timely¹ filed on March 9, 2004 requesting that the Office adjust the PTA from a determination of zero (0) days at the time of the mailing of the notice of allowance to a determination of one hundred and eighty (180) days at the time of the mailing of the notice of allowance.

Applicants' application for Patent Term Adjustment is **GRANTED**. The Office will adjust the Patent Term Adjustment to reflect that the correct amount of PTA at the time of the mailing of the notice of allowance is one hundred and eighty (180) days.

Applicants assert that the Office erred in asserting that the response filed on November 7, 2002² was informal on nonresponsive

¹Issue fee paid on 3/9/2004.

²PALM incorrect has the date of response of informal or non-responsive as November 12, 2002 rather than the correct date of November 7, 2002.

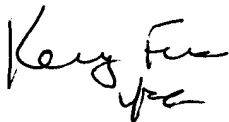
because the examiner's assertion that application did not submit the declaration/affidavit is inaccurate. Applicants submitted a postcard stamped receipt reflecting the submission of an affidavit by Migone on November 7, 2002. Accordingly, applicants assert that the submission of an omission pursuant to 37 CFR 1.704(c)(7) is an error and accordingly the 113 day reduction is therefore an error. Moreover, applicants assert that Office did not respond to the complete response filed on November 7, 2002 until September 9, 2003, a one hundred and eighty day delay pursuant to 37 CFR 1.702(a)(2).³

Applicants arguments are persuasive. Applicants submission of the stamped postcard receipt reflecting the submission of the affidavit of Migone on November 7, 2002 is prima facie evidence of receipt in the USPTO. Accordingly, the Office erred in submitting a notice of informal or non-responsive amendment to applicants. Applicants's amendment was fully responsive and the office needed to reply to such amendment prior to March 8, 2008, to avoid awarding PTA for failing to respond within four months. The office delayed for a period of one hundred and eighty (180) days as suggested by applicants.

After the mailing of this decision, the application will be forwarded to the Office of Patent Publications for a prompt issuance of the patent. Any delays in issuing the patent more than four months of the payment of the issue fee and other requirements being satisfied will be reflected in the issue notification letter that is mailed to applicants approximately three (3) weeks prior to issuance of the patent.

The Office has assessed the \$200.00 fee. No additional fees are required of applicants

Telephone inquiries specific to this matter should be directed to Kery Fries, Senior Legal Advisor, at (571) 272-7757.



Karin Ferriter

³PTA for Office delay began on March 8, 2003 day after four months from applicant reply until day of Office response September 3, 2003.

Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Day : Friday
Date: 8/12/2005

PALM INTRANET

Time: 13:55:11

PTA Calculations for Application: 09/314889

Application Filing Date:	05/19/1999	PTO Delay (PTO):	60
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	113
Post-Issue Petitions:	0	Total PTA (days):	180
PTO Delay Adjustment:	233		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
95	08/12/2005	ADJUSTMENT OF PTA CALCULATION BY PTO		60	
94	08/12/2005	ADJUSTMENT OF PTA CALCULATION BY PTO	180		
93	08/12/2005	ADJUSTMENT OF PTA CALCULATION BY PTO	113		
79	12/10/2003	MAIL NOTICE OF ALLOWANCE			
78	12/09/2003	ISSUE REVISION COMPLETED			
77	12/09/2003	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
76	12/09/2003	NOTICE OF ALLOWABILITY			
75	11/20/2003	DATE FORWARDED TO EXAMINER			
74	11/03/2003	AMENDMENT/ARGUMENT AFTER NOTICE OF APPEAL			
73	11/03/2003	NOTICE OF APPEAL FILED			
72	09/03/2003	MAIL FINAL REJECTION (PTOL - 326)	60		69
71	09/03/2003	FINAL REJECTION			
70	09/03/2003	DATE FORWARDED TO EXAMINER			
69	03/05/2003	RESPONSE AFTER NON-FINAL ACTION		113	63
68	07/02/2003	CORRESPONDENCE ADDRESS CHANGE			
67	07/02/2003	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
66	02/21/2003	MAIL NOTICE OF INFORMAL OR NON-RESPONSIVE AMENDMENT			
65	12/20/2002	MISCELLANEOUS INCOMING LETTER			
64	12/19/2002	DATE FORWARDED TO EXAMINER			
63.1	11/12/2002	INFORMAL OR NON-RESPONSIVE AMENDMENT AFTER EXAMINER ACTION			
63	11/12/2002	RESPONSE AFTER NON-FINAL ACTION			
62	11/12/2002	REQUEST FOR EXTENSION OF TIME - GRANTED			

61	08/15/2002	MAIL NON-FINAL REJECTION			
60	08/15/2002	NON-FINAL REJECTION			
59	08/15/2002	DATE FORWARDED TO EXAMINER			
58	08/06/2002	AMENDMENT AFTER FINAL REJECTION			
57	05/07/2002	MAIL FINAL REJECTION (PTOL - 326)			
56	05/02/2002	FINAL REJECTION			
40	04/02/2002	DATE FORWARDED TO EXAMINER			
39	06/21/2001	CONTINUING PROSECUTION APPLICATION - CONTINUATION (ACPA)			
38	05/14/2002	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
37	05/02/2002	MAIL NOTICE OF RESCINDED ABANDONMENT			
36	05/14/2002	NOTICE OF RESCINDED ABANDONMENT IN TCS			
35	02/15/2002	PETITION TO REVIVE APPLICATION - GRANTED			
34	10/09/2001	PETITION ENTERED			
26	09/28/2001	MAIL ABANDONMENT FOR FAILURE TO RESPOND TO OFFICE ACTION			
25	09/28/2001	ABANDONMENT FOR FAILURE TO RESPOND TO OFFICE ACTION			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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